



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/170704

PRELIMINARY RECITALS

Pursuant to a petition filed December 8, 2015, under Wis. Admin. Code §HA 3.03, to review a decision by the Public Assistance Collection Unit ["PACU"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on January 5, 2016. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning the same petitioner: MOP-170705.

The issue for determination is whether it was correct to establish the following claim against petitioner for an overpayment of FS: Claim Number [REDACTED] for the time period July 1, 2015 to October 31, 2015 in the total amount of \$3,700.00.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

BY: [REDACTED], PARIS Agent
Public Assistance Collection Unit
PO Box 8938
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of the State of Indiana.
2. The County established the following claim against petitioner for an overpayment of FS: Claim Number [REDACTED] for the time period July 1, 2015 to October 31, 2015 in the total amount of \$3,700.00. Exhibits #A1, #A2 & #A5.
3. During the time period of the FS overpayment listed in *Finding of Fact* #2, above, petitioner was not a resident of the State of Wisconsin. Exhibits #A3 & #A4.

DISCUSSION

A person must live in Wisconsin in order to receive FS in Wisconsin. 7 C.F.R. § 273.3(a) (2016); *FoodShare Wisconsin Handbook* ["FWH"] 3.2.1. PACU presented convincing evidence that petitioner was not a resident of the State of Wisconsin during the time period in question. First, all of petitioner's Wisconsin FS usage was outside of Wisconsin. Exhibit #A3. Second, on July 1, 2015, when four of petitioner's children were receiving FS on their grandmother's (petitioner's mother's) case in Indiana, petitioner applied (using an internet ACCESS application) for and received FS in Wisconsin on a case that included herself and all 4 of those children. Exhibits #A4 & #A6. On her July 1, 2015 Wisconsin FS application petitioner stated that the children were Wisconsin residents, that she was their primary caretaker, that she buys food and eats meals together with them, and that she was not getting FS. Exhibit #A6.

Petitioner testified that she moved to Indiana with her children in October 2015 and that she did not know why her children were on their grandmother's (petitioner's mother's) case. She testified that during the time period in question she lived in Wisconsin but drove to Indiana every month to buy her meat because there was no meat store in Wisconsin. Petitioner's testimony is not credible.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to establish the following claim against petitioner for an overpayment of FS: Claim Number [REDACTED] for the time period July 1, 2015 to October 31, 2015 in the total amount of \$3,700.00.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

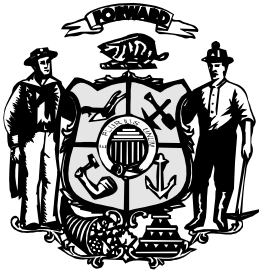
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 26th day of January, 2016

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 26, 2016.

Public Assistance Collection Unit
Public Assistance Collection Unit
Division of Health Care Access and Accountability